

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

FILED

FEB 20 2008

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

RONNIE MANNS
Plaintiff

vs

Case No: 07 C 50244

ILLINOIS DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES
LUTHERAN SOCIAL SERVICES
Defendants

NOW COMES the Plaintiff and submits the following in support of denial of State
Defendant's Motin to Dismiss:

Introduction

Plaintiff while seeking monetary damages does not seek any "mandatory injunctive relief" (Katisha M was returned to Plaintiff's home on or about December 10, 2007) nor is Plaintiff attempting to litigate matters previously considered by the state court. State Defendant nor it's agencies should not be allowed to hide responsibility and accountability behind the Eleventh Amendment if it's alledged violations are that of the Fourteenth Admendment.

Argument

“Fitzpatrick v. Bitzer, 427 U.S. 445 (1976) was a United States Supreme Court decision that determined that the U.S. congress has the power to abrogate the Eleventh Amendment sovereign immunity of the states, if it is done pursuant to its Fourteenth Amendment power to enforce upon the states the guarantees of the Fourteenth Amendment”

Since Plaintiff is not attempting to litigate matters previously considered by the state court, the doctrine of issues preclusion is not relevant.

The federal court does have jurisdiction over the subject matter. The result of the Rooker v. Fidelity Trust Co. (later known as the Rooker-Feldman doctrine) 263 U.S. 413 (1923) that district courts has original jurisdiction to hear cases arising under the constitution and laws of the United States, meaning that they can only hear claims that were initially brought in or removed to the district court. This is not a refiling of a previously dismissed case and there has been no other lawsuit filed by this plaintiff in any state or federal court in the United States.

Conclusion

WHEREFORE, for the foregoing reasons stated, Plaintiff respectfully requests that this Honorable Court deny State Defendant's motion to dismiss.

Respectfully submitted


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CERTIFICATION OF SERVICE

I hereby certify that on February 18, 2008 I have sent by U.S. Mail, postage prepaid, the document to the following participants:

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